

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LIABILITY LITIGATION,)))))	Master Docket: Misc. No. 21-1230 MDL No. 3014
This Document Relates to:))	
<i>Gayla Graham et al. v. Respironics, Inc. et al., 2:22-cv-00224-JFC</i>)))	

**RESPONSE OF PLAINTIFFS CO-LEAD COUNSEL TO PLAINTIFFS' MOTION FOR
RELIEF FROM THE DOCKET MANAGEMENT ORDER FOR CLAIMS OF
LITIGATING PLAINTIFFS**

Plaintiffs' Co-Lead Counsel take no position on the merits of the Grahams' motion for remand, ECF No. 3133, but submit this response to correct factual misstatements in their filing.

The Grahams claim that they have not been allowed to undertake any written or oral discovery against the Defendants, or receive document production regarding their claims. Pursuant to Pretrial Order Nos. 1, 8, and 13, ECF Nos. 4, 395, 491, this Court appointed individuals to serve as part of Plaintiffs' Leadership, and, among more, conduct discovery on behalf of all participating counsel and plaintiffs, including the Grahams and their counsel. *See* Pretrial Order No. 8 at 3. In the approximately three years since their appointment, that is exactly what Plaintiffs' Leadership did: engaging in written discovery, conducting numerous depositions, and obtaining and analyzing documents in support of all plaintiffs' claims. As the Court is aware, the extensive work performed by Plaintiffs' Leadership resulted in three separate settlement agreements—the Economic Loss Class Settlement, the Medical Monitoring Class Settlement, and the Personal

Injury Master Settlement Agreement—that, combined, provided nearly \$2 billion in compensation for the millions of individuals affected by the products at issue in this litigation.

Beyond simply conducting discovery, as set forth in PTO 8, Plaintiffs' Leadership has maintained files of all pretrial matters and made them available for examination by plaintiffs, or their attorneys, including the Grahams and their counsel. The Grahams have no need for the discovery conducted by Plaintiffs' Leadership to issue preservation notices, produce their proof of injury, or prepare and serve the fact sheets required under the Order. *See* ECF No. 2769. Regardless, to the extent they wanted access to discovery to prepare any of those requirements, Plaintiffs' Leadership would have provided it at any time. However, the Grahams did not reach out to Plaintiffs' Leadership or Liaison counsel prior to filing their motion on February 4, 2025. The next day, upon learning for the first time that the Grahams desired access to discovery materials, Plaintiffs' Leadership contacted the Grahams' counsel and made all requested discovery available, including written discovery, deposition transcripts, and document productions. On February 6, the Graham's counsel indicated that they did not want to (and would not) access any of the discovery material until after a ruling on their motion to remand.

Dated: February 20, 2025

Respectfully submitted,

/s/ Christopher A. Seeger

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